

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION  
DAYTON, OHIO**

JAY E. MICHAEL, Admr.,	:	
	:	
Plaintiff,	:	Case No.: 3:10cv-187
	:	
vs.	:	Judge Timothy Black
	:	
VELOX TRUCKING, LLC, et al.,	:	Magistrate Judge
	:	Sharon L. Ovington
Defendants.	:	

**PLAINTIFF'S MEMORANDUM CONTRA DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Defendants Senad Basic and Velox Trucking, LLC have moved this Court for an Order of Partial Summary Judgment declaring that Heidi Callaway is not a beneficiary of Plaintiff's decedent for purposes of this wrongful death action. (Doc. #18). For the reasons set forth in Plaintiff's Cross-Motion for Partial Summary Judgment (Doc. #22 ), and because Mrs. Callaway is entitled to recovery as a beneficiary under the guidelines set forth by the Ohio Supreme Court in *Lawson v. Atwood* (1989), 42 Ohio St.3d 69, Defendants' Motion should be DENIED.

Respectfully Submitted,

/s/ Timothy M. Mahler  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2010, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Timothy M. Mahler

Timothy M. Mahler